

### REMARKS

Favorable reconsideration of the application is respectfully requested in light of the amendments and remarks herein.

Upon entry of this amendment, claims 1-18, 26-27, and 31-35 will be pending. By this amendment, claims 1-18, 26-27, and 31-35 have been amended; and claims 19-25, 28-30, and 36-49 have been canceled. No new matter has been added.

#### §103 Rejection of Claims 1-49

In Section 2 of the Office Action, claims 1-49 stand rejected under 35 U.S.C. §103 as being unpatentable over Ryan (U.S. Patent No. 5,513,260) in view of Bladder *et al.* (U.S. Patent No. 5,933,500; hereinafter referred to as “Bladder”) alone or further in view of Hirai (U.S. Patent No. 6,839,503).

In the Background section of the Specification, it was disclosed that “[d]ue to the advances made in recording technology and signal processing technology in recent years, the systems for recording for example music data have diversified. For example, even looking at the recording media, there are now media of various forms, various systems, and various formats. Accordingly, there are also various types of recording apparatuses and reproducing apparatuses. Further, the music data itself comes in various signal parameters, various compression systems, and various specifications. Further, as additional functions, various signals are superimposed on the music data for use for prevention of illicit copying, for clearing of rights, etc.” *Background of the Specification, page 1, line 21 to page 2, line 8.*

Thus, “due to the appearance of such a variety of systems and specifications, there is the disadvantage in that it is difficult to convert formats or achieve compatibility among them. ...

While various specifications of data and media have appeared, these are also connected by networks making the transfer of the data itself easy. While transfer is possible, however, there is the disadvantage that the data cannot be used since the data differs in the compression method, format, etc. ... In recent years, the distribution of various forms of data via the network is now becoming commonplace as a business. Even in such a distribution system, such a disadvantage has occurred. Since there are various formats, the disadvantage easily arises of the format being mistaken or the data not being suitably converted and therefore the transmitted data not being able to be distributed in a suitable form. Further, the disadvantage also easily arises that important data, for example charge data, is destroyed or becomes clear to the outside due to unsuitable conversion..” *Background of the Specification, page 2, line 10 to page3, line 5.*

To address the above-stated problem, embodiments of the present invention provide systems, methods, and programs for data distribution “capable of suitably grasping an operating environment even in a system which various types of apparatuses are connected and thereby capable of suitably distributing data, of course, and also controlling copying of the data, conversion of signals, charge processing, distribution of profit, and other various processing, and a method of the same, a data processing apparatus preferred when applied to such a data distribution system and a method of same, and a data recording medium.” *Specification, page 3, lines 9-18.* For example, the structure of data distribution system claim 1 includes:

*a reproducing apparatus* for reproducing content data distributed from a mounted recording medium;

*a recording apparatus* for recording said reproduced content data on a mounted recording medium;

*an examining means* for examining the type of the content data recorded on the recording medium mounted in said reproducing apparatus, the recording medium mounted in said reproducing apparatus, said reproducing apparatus, the

recording medium mounted in said recording apparatus, and said recording apparatus, said examining means generating usage information including a plurality of ownership rights and distribution profits; and

*a controlling means for controlling transfer of said content data from said recording medium mounted in said reproducing apparatus to said recording medium mounted in said recording apparatus based on said usage information.*

(emphasis added)

Accordingly, in one aspect of claim 1, the data distribution system includes a recording apparatus; an examining means for generating usage information including a plurality of ownership rights and distribution rights (see Specification, page 31, line 20 to page 39, line 15); and a controlling means for transferring the content data based on the usage information.

By contrast, Ryan, in a relevant passage, recites that the availability of recordable CD players/recorders “will create a serious conflict between software producers’ need to sell their products for \$50+ to make a profit, and the consumers’ resulting ability to make a perfect copy for the price of a blank disc, projected to be in the \$10 to \$20 range soon.” Further, Hirai, in a relevant passage, recites that “[i]t is an object of the present invention to provide transfer apparatus which achieve balancing profit and loss between a proprietor of copyright and a user.” Bladder was merely cited for disclosing generating a playback encryption code for storage on medium 105, and to remove the original broadcast encryption codes from the program datastream to be stored.

Therefore, Ryan, Bladder, and Hirai, individually or in combination, fail to teach or suggest a data distribution system including a recording apparatus; an examining means for generating usage information including a plurality of ownership rights and distribution rights; and a controlling means for transferring the content data based on the usage information.

Accordingly, Ryan, Bladder, and Hirai, individually or in combination, fail to teach or suggest all the limitations of claim 1.

Based on the foregoing discussion, claim 1 should be allowable over Ryan, Bladder, and Hirai. Further, since independent claims 26 and 31 closely parallel, and recite substantially similar limitations as recited in, claim 1, claims 26 and 31 should also be allowable over Ryan, Bladder, and Hirai. Since claims 2-18, 27, and 32-35 depend from claims 1, 26, and 31, respectively, claims 2-18, 27, and 32-35 should also be allowable over Ryan, Bladder, and Hirai. Claims 19-25, 28-30, and 36-49 have been canceled.

Accordingly, it is submitted that the rejection of claims 1-49 based upon 35 U.S.C. §103 has been overcome by the present remarks and withdrawal thereof is respectfully requested.

#### §112 Rejection of Claims 2-18 and 22-49

In Section 3 of the Office Action, claims 2-18 and 22-49 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 2-18, 26-27, and 31-35 have been amended to address the rejection. Claims 22-25, 28-30, and 36-49 have been canceled.

Accordingly, it is submitted that the rejection of claims 2-18 and 22-49 based upon 35 U.S.C. §112, second paragraph has been overcome by the present remarks and withdrawal thereof is respectfully requested.

#### Conclusion

In view of the foregoing, entry of this amendment and the allowance of this application with claims 1-18, 26-27, and 31-35 are respectfully solicited.

In regard to the claims amended herein and throughout the prosecution of this application, it is submitted that these claims, as originally presented, are patentably distinct over the prior art of record, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes that have been made to these claims were not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, these changes were made simply for clarification and to round out the scope of protection to which Applicant is entitled.

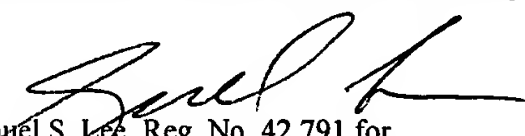
In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicant's representative at the telephone number written below.

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 50-0320.

Respectfully submitted,

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